

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

Richard Sunem Teasley, Jr., # 236571)	
)	
Plaintiff,)	
v.)	Civil Action No.: 6:12-cv-01465-JMC
)	
Randall Chambers, Esq.;)	
Tracey Burke, Investigator for)	
Greenville County Public Defender's Office,)	
)	ORDER AND OPINION
Defendants.)	
_____)	

This matter is before the court for review of the Magistrate Judge's Report and Recommendation ("Report") [Dkt. No. 10], filed on June 5, 2012, recommending that Plaintiff's Complaint [Dkt. No. 1] be dismissed without prejudice and without issuance and service of process. Plaintiff brought this action seeking relief pursuant to Title 42 U.S.C. § 1983. The Report sets forth in detail the relevant facts and legal standards on this matter which the court incorporates herein without a recitation.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. "The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination." *Wallace v. Hous. Auth.*, 791 F. Supp. 137, 138 (D.S.C. 1992) (citing *Matthews v. Weber*, 423 U.S. 261, 271 (1976)). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Plaintiff was advised of his right to file objections to the Report [Dkt. No. 10 at 8]. Plaintiff timely filed objections to the Magistrate Judge's Report and Recommendation. [Dkt. No. 12].

Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. *See United States v. Schronce*, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Magistrate Judge's Report and Recommendation, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

In his objections [Dkt. No. 12], Plaintiff states that he is not contesting his sentence, but instead desires to pursue a claim for ineffective assistance of counsel. The Magistrate Judge recommended that this case be dismissed without prejudice and thus Plaintiff may refile his case to state a claim for a writ of habeas corpus as outlined in the Magistrate Judge's Report and Recommendation [Dkt. No. 10].

Therefore, after a thorough review of the Magistrate Judge's Report and Recommendation and the record in this case, the court **ACCEPTS** the Report and Recommendation [Dkt. No. 10]. For the reasons articulated by the Magistrate Judge, it is therefore **ORDERED** that Plaintiff's Complaint [Dkt. No. 1] is **DISMISSED** without prejudice and without issuance and service of process.

IT IS SO ORDERED.



United States District Judge

February 22, 2013
Greenville, South Carolina